

Disposition of the Independent Review Panel



Complainant: Willie Scott

IRP Case: A2003.367

Date: June 23, 2005

MDPD Case: IA 2004-0017

The Independent Review Panel met on June 23, 2005 for the purpose of publicly reviewing the complaint made by Willie Scott against the Miami-Dade Police Department (MDPD) and the department's response to that complaint. The following represents the findings of the Panel:

A. Recommendations

1. That MDPD define "consensual encounters" so that officers and the public have a mutual understanding as to when an individual must answer an officer's questions and when an individual can ignore the officer's questions.
2. That MDPD institute "de-escalation" training on a continuing basis for its officers.

B. Incident

The complainant was confronted by an MDPD detective of the Robbery Intervention Detail on Friday, December 12, 2003 as he was opening his back gate. The detective asked the complainant several questions regarding where he lived and who he was. According to the detective, Mr. Scott refused to answer, ran into the yard and grabbed hold of the fence. The detective exited his vehicle and pursued Mr. Scott, ordering him to release the fence. The detective tried to handcuff the complainant. A City of Miami police officer arrived and threatened to "taze" the complainant if he did not comply with orders to release the fence. The complainant complied and was handcuffed. He was charged with "Battery on a Police Officer" and "Resisting Arrest with Violence."

C. Allegations

1. Detective Bermudez had no cause to arrest the complainant.
2. Detective Bermudez used excessive force when he pushed the complainant to the ground, and when he subsequently placed him in handcuffs.

D. Disposition of the Independent Review Panel

1. Detective Bermudez had no cause to arrest Willie Scott. **SUSTAINED**

The Panel found that there was no cause to arrest Mr. Scott at the time Detective Bermudez first approached him, however, Detective Bermudez' actions created a cause to arrest Mr. Scott. Mr. Scott was in an area where there were a lot of burglaries because he lived in that area. Legally, a police officer has the right to approach an individual and ask questions, but in a consensual encounter, an individual is not required to answer¹. Detective Bermudez stated Mr. Scott refused to answer his question, ran into his yard and grabbed hold of the fence. If Mr. Scott "ran," as Detective Bermudez stated, the Detective had reasonable suspicion for an investigatory stop².

¹ United States Supreme Court Ruling; *Fournier v. State of Florida*

² MDPD Legal Bulletin 2000-2

However, Mr. Scott was not fleeing, nor was there reasonable suspicion that he committed a crime, nor was he a threat to the officer's safety at the time Detective Bermudez, without calling for backup, decided to forcefully handcuff Mr. Scott. The arrest charges, "Resisting Arrest Without Violence" and "Battery on a Police Officer" were the result of the Detective's decision to forcefully handcuff Mr. Scott without reasonable suspicion that he had committed a crime. The fact that the State Attorney's Office "no actioned"³ the charge of "Resisting Arrest Without Violence" and "nolle prossed"⁴ the charge of "Battery on a Police Officer" supports the lack of cause to arrest Mr. Scott.

2. Detective Bermudez used excessive force when he pushed him to the ground, and when he subsequently placed him in handcuffs. **SUSTAINED**

The Panel found that Officer Bermudez used excessive force to handcuff Mr. Scott and take him to the ground. Although there were four civilian witnesses who stated they did not observe Detective Bermudez use excessive force while arresting Mr. Scott, Mr. Scott was not fleeing, nor was there reasonable suspicion the he had committed a crime, nor was he a threat to the officer's safety at the time Detective Bermudez, without calling for backup, decided to forcefully handcuff Mr. Scott. There was not cause to handcuff Mr. Scott at the time Detective Bermudez attempted to handcuff him.

E. Other Findings

Both Detective Bermudez and Mr. Scott's behavior contributed to the escalation of the incident. Detective Bermudez was working a Robbery Intervention Detail in an area where there were a lot of burglaries. This service benefited everyone living in the area, including Mr. Scott. Although Mr. Scott is not legally compelled to answer an officer's questions in a consensual encounter, failing to cooperate with an officer creates suspicion. At the same time, Detective Bermudez failed to use sound judgment when he attempted to forcefully handcuff Mr. Scott. He was one-on-one with Mr. Scott at the time; he had not yet called for backup. The fact that Mr. Scott was hanging onto a fence, refused to let go and was stating he didn't do anything wrong posed no immediate threat to Detective Bermudez' safety

The Independent Review Panel concluded the complaint on June 23, 2005.

³ *No Action* State Attorney's Office takes no action, case is closed.

⁴ *Nolle Prossed* Latin term meaning "unwilling to prosecute." The State Attorney's Office did not pursue the charges.

Independent Review Panel

Staff Recommendation to the Panel

June 23, 2005

Complaint: A 2003.367

MDPD Case: IA 2004-0017

Complainant: Mr. Willie L. Scott

Accused Party: Miami-Dade Police Department (MDPD), Detective Edward Bermudez

Date Complaint Received: December 15, 2003

Materials Reviewed: Grievance Report Form, Correspondence, IA Case 2004-0017, staff notes, MDPD Legal Bulletins

Complaint: Mr. Willie Scott stated that on Friday, 12/12/03, at approximately 1:30 p.m., he was opening the back gate for his kids to enter when they arrived from school; something he does on a daily basis. He saw a White male in a Nissan Maxima drive along side the gate and turn down his window. Mr. Scott observed the male wearing a black t-shirt with a badge emblem indicating Miami-Dade Police. The officer asked Mr. Scott for ID. Mr. Scott replied, "It is not on me, it is inside the house. If you want me to go get it, I will."

As Mr. Scott turned his back and began to walk towards his house, the officer exited his vehicle and pushed him to the ground. The officer then grabbed him by the upper arm/shoulder area, pulled him to his feet and pinned him to the gate - where Mr. Scott grabbed a hold of the gate with one hand. The officer ordered Mr. Scott to remove his hand from the gate. Mr. Scott yelled for his wife who was inside the house, and then told the officer he was not going to remove his hand from the gate because he had done nothing wrong. The officer placed the hand that was holding the gate in a handcuff. Deborah, the wife, came out the house repeatedly yelled, "He lives here."

A uniformed City of Miami Officer appeared holding a stun gun. The Miami officer ran to the gate and yelled, "If you don't let go of the gate, I'll electrocute you with the stun gun." Mr. Scott released his hold on the gate. The MDPD officer then flipped him to the ground. The Miami officer put his foot on Mr. Scott's chest, placed the stun gun in front of his face and ordered him to turn over. Mr. Scott turned over and the MDPD officer handcuffed his other hand. He was then picked up and placed in a marked MDPD police unit, driven by a uniformed female officer. At this time, there were approximately 10 unmarked MDPD patrol units (all officers were dressed in black) and two marked MDPD vehicles on the scene.

The female officer drove to 45 Street and NW 17 Avenue, where she met the same officers who were at the residence. They remained at the NW 17th Avenue location for approximately two - three hours. When Mr. Scott asked the female officer why was he arrested, she exited the vehicle and approached the arresting MDPD officer. When she returned to the vehicle, she told Mr. Scott that the officer said he (Scott) ran. She then told him that he was charged with "Battery on a Police Officer" and "Resisting without Violence."

Mr. Scott alleges MDPD Detective Edward Bermudez:

1. Had no cause to arrest him.
2. Used excessive force when he pushed him to the ground, and when he subsequently placed him in handcuffs.

Staff Note: The charge of "Battery on a Police Officer," was nolle prossed. The State Attorney's Office "no actioned" the charge of "Resisting Arrest Without Violence."

Department Response: MDPD Case IA 2004-0017

Statement of Detective Edward Bermudez, Robbery Bureau

Detective Bermudez stated he was working a plainclothes Robbery Intervention Detail on December 12, 2003 when he observed the complainant, Mr. Scott, exit the rear yard of a residence located at 1255 NW 45 Street. Detective Bermudez stated he drove up to Mr. Scott, and after identifying himself as a police officer, asked Mr. Scott if he lived at the residence. According to Detective Bermudez, Mr. Scott responded by stating he did not have to answer the question and started to turn away. Detective Bermudez then ordered Mr. Scott to stop and informed him he had reason to stop him because of the high number of burglaries in the area. Detective Bermudez stated Mr. Scott responded by saying "the police were all the same" and that he was being harassed. Detective Bermudez stated that as he exited the vehicle, Mr. Scott ran into the fenced yard located at 1255 NW 45 Street where he grabbed hold of the fence.

Detective Bermudez gave loud verbal commands for Mr. Scott to release the fence and "made a decision to go ahead and try to handcuff him for officer safety until I could figure out what was going on." Detective Bermudez then handcuffed Mr. Scott's left hand and, as he reached for the right hand, Mr. Scott swung his right elbow back, striking Detective Bermudez in the right cheek. At this time, City of Miami Police Officer Corporal Lester Cole responded and helped remove Mr. Scott's left hand from the fence. Detective Bermudez stated Corporal Cole produced his stun gun and ordered Mr. Scott to obey Detective Bermudez's commands to lie on the ground or else he would be "tased." Mr. Scott then released the fence and Detective Bermudez took him down using an "arm-bar takedown." Detective Bermudez stated Mr. Scott was then handcuffed without further incident and that Mr. Scott had no signs of injury nor did he complain of any injuries. Detective Bermudez the stated Ms. Deborah Scott retrieved Mr. Scott's Florida ID card, which contained a different address than the residence. Detective Bermudez stated he did not push Mr. Scott to the ground; he did not grab Mr. Scott by the arm/shoulder area and pull him up on his feet.

Statement of Corporal Lester Cole, Miami Police Department (North District, Uniform)

Corporal Cole stated he was on routine patrol when he observed Mr. Scott running into the rear fenced yard of 1255 NW 45 Street, being pursued by Detective Bermudez. Corporal Cole stated upon circling the block he stopped and assisted Detective Bermudez in arresting Mr. Scott who continued to resist by holding onto the fence and refusing to be handcuffed. Corporal Cole stated that, although he drew his taser and gave loud verbal commands, Mr. Scott continued to resist handcuffing. Corporal Cole stated Detective Bermudez and he worked together and utilized a "tactical leg sweep" on Mr. Scott, effectively placing him on the ground without injury.

Statement of Ms. Deborah Scott

Ms. Scott stated on the day of the incident, she heard her husband, Mr. Scott, calling her name. Ms. Scott stated when she went outside she observed Detective Bermudez standing behind Mr. Scott holding one of his arms, while Mr. Scott was holding the fence with his other arm. Ms. Scott stated Detective Bermudez told her to retrieve Mr. Scott's ID. When she returned with the ID, she asked what the problem was. Ms. Scott stated Detective Bermudez ignored her question. Ms. Scott then stated she saw Corporal Cole arrive and shortly thereafter, several other marked and unmarked units. Ms. Scott stated she saw Mr. Scott handcuffed and placed into one of the police vehicles but no one told her what the problem was or why Mr. Scott was arrested.

Statement of Ms. Katie Seymour

Ms. Seymour stated she was inside her residence at 4560 NW 12 Place when the incident occurred. Ms. Seymour stated she heard a female yelling, "He didn't do nothing." Ms. Seymour stated she took a quick look out her south bedroom window and observed Mr. Scott on the ground with two police officers on top of him. Ms. Seymour stated she did not observe either of the officers using excessive force on the complainant.

Statement of Mr. John Johnson

Mr. Johnson stated he was working in the area when observed Mr. Scott and Detective Bermudez in the rear side of the yard of Mr. Scott's residence. Detective Bermudez held onto Mr. Scott's hand and continually instructed him to get down. Mr. Scott kept yelling, "I didn't do anything," and refused to let go of the fence. Mr. Johnson also stated he observed Ms. Scott exit the house and yell, "Leave him alone, he did not do anything." Mr. Johnson stated a City of Miami police officer ran into Mr. Scott's yard to assist Detective Bermudez. Mr. Johnson stated he observed the Miami officer order Mr. Scott to the ground then point his stun gun at him when he refused to comply. Mr. Johnson stated Mr. Scott ended up on the ground where he was handcuffed and then placed into a police vehicle. Mr. Johnson stated he was standing too far away to see what the officers did to Mr. Scott while he was on the ground. According to Mr. Johnson, the officers used only the force necessary to arrest and handcuff Mr. Scott.

Statement of Mr. Willie Ellis

Mr. Ellis stated he was working at 4525 NW 12 Place when he heard a commotion and observed Detective Bermudez and Mr. Scott inside the complainant's side yard. Detective Bermudez repeatedly yelled for Mr. Scott to "get down on the ground." Mr. Ellis stated Mr. Scott somehow ended up on the ground but then stood back up. According to Mr. Ellis, a City of Miami Police Officer ran to help Detective Bermudez. Mr. Ellis stated the Miami officer threatened to use his stun gun if Mr. Scott did not get on the ground. Mr. Ellis stated Ms. Scott ran up to the officers and yelled, "You can't do him like that." Mr. Ellis stated he did not observe the officers use any unnecessary force during the arrest and handcuffing. Mr. Ellis said, "The officers were just doing their job, it's just too bad the guy didn't cooperate."

Statement of Ms. Essie Martin

While standing in her rear yard Ms. Martin heard yelling coming from Mr. Scott's residence. Ms. Martin stated she heard Mr. Scott yell, "I do the same thing you do," as Detective Bermudez repeatedly ordered Mr. Scott to let go of the fence. Ms. Martin stated a City of Miami Police Officer drove up and assisted Detective Bermudez in getting Mr. Scott to the ground where he was handcuffed and placed into a police car. Ms. Martin stated she did not know why Mr. Scott was being arrested but the officers did not use any unnecessary or excessive force while making the arrest.

MDPD Disposition The following is quoted from the MDPD Disposition Panel memorandum dated June 7, 2004:

Allegation #1: Detective Bermudez had no probable cause to arrest him; therefore, it was an unlawful arrest. (Departmental Misconduct/Improper Arrest) **EXONERATED**

On Friday, January 2, 2004, the Miami-Dade County State Attorney's Office (SAO) filed the charge of "Battery on a Police Officer" against the complainant. By doing so, the SAO accepted the officer's account of the incident, more specifically, the fact that probable cause did exist to affect an arrest. As such, Detective Bermudez safeguarded against false arrest by complying with all applicable departmental policies and procedures as well as State law.

It should be further noted that the complainant and his wife, Ms. Scott, both declined to render statements or provide additional investigative information, including assisting the Professional Compliance Bureau (PCB) with efforts to identify the involved officer.

Allegation #2: Detective Edward Bermudez used unauthorized force by pushing him to the ground, and then after standing up, flipping him onto the ground for handcuffing. (Unauthorized Force/No Visible Injury {During Arrest}) **NOT SUSTAINED**

Five witnesses, including the complainant's wife (Ms. Scott), stated that they did not witness the actual takedown; however, three of the witnesses stated they observed that the officers did not use excessive force and confirmed that the complainant did not adhere to commands to release his hold of the fence or to get down to the ground.

Police witness, Corporal Lester Cole of the MPD, stated to PCB investigators that he assisted Detective Bermudez with arresting the complainant who was resisting handcuffing by holding onto a fence. Both officers, working together, were able to get the complainant to the ground by using a "tactical leg sweep," causing no injury.

Staff Remarks: MDPD closed its file on June 29, 2004. The IRP received the MDPD file on September 14, 2004. Staff sent a copy of the file to the complainant on September 20, 2004 with a deadline to respond on October 4, 2004. Staff followed up with a telephone call on January 19, 2005. There has been no response from the complainant to date.

Staff Findings:

A. Regarding the allegations

1. Detective Bermudez had no cause to arrest Willie Scott. **SUSTAINED**

Staff found that there was no cause to arrest Mr. Scott at the time Detective Bermudez first approached him, however, Detective Bermudez' actions created a cause to arrest Mr. Scott. Mr. Scott was in an area where there were a lot of burglaries because he lived in that area. Legally, a police officer has the right to approach an individual and ask questions, but in a consensual encounter, an individual is not required to answer. Detective Bermudez stated Mr. Scott refused to answer his question, ran into his yard and grabbed hold of the fence. If Mr. Scott "ran," as Detective Bermudez stated, the Detective had reasonable suspicion for an investigatory stop¹.

However, Mr. Scott was not fleeing, nor was there reasonable suspicion that he had committed a crime, nor was he a threat to the officer's safety at the time Detective Bermudez, without calling for backup, decided to forcefully handcuff Mr. Scott. The arrest charges, "Resisting Arrest Without Violence" and "Battery on a Police Officer" were the result of the Detective's decision to forcefully handcuff Mr. Scott without reasonable suspicion that he had committed a crime. The fact that the State Attorney's Office "no actioned"² the charge of "Resisting Arrest Without Violence" and "nolle prossed"³ the charge of "Battery on a Police Officer" supports the lack of cause to arrest Mr. Scott.

2. Detective Bermudez used excessive force when he pushed him to the ground, and when he subsequently placed him in handcuffs. **SUSTAINED**

Staff found that Officer Bermudez used excessive force to handcuff Mr. Scott and take him to the ground. Although there were four civilian witnesses who stated they did not observe Detective Bermudez use excessive force while arresting Mr. Scott, Mr. Scott was not fleeing, nor was there reasonable suspicion that he had committed a crime, nor was he a threat to the officer's safety at the time Detective Bermudez, without calling for backup, decided to forcefully handcuff Mr. Scott. There was not cause to handcuff Mr. Scott at the time Detective Bermudez attempted to handcuff him.

¹ MDPD Legal Bulletin 2000-2

² *No Action* State Attorney's Office takes no action, case is closed.

³ *Nolle Prossed* Latin term meaning "unwilling to prosecute." The State Attorney's Office did not pursue the charges.

B. Other Findings:

Both Detective Bermudez and Mr. Scott's behavior contributed to the escalation of the incident. Detective Bermudez was working a Robbery Intervention Detail in an area where there were a lot of burglaries. This service benefited everyone living in the area, including Mr. Scott. Although Mr. Scott is not legally compelled to answer an officer's questions in a consensual encounter, failing to cooperate with an officer creates suspicion. At the same time, Detective Bermudez failed to use sound judgment when he attempted to forcefully handcuff Mr. Scott. He was one-on-one with Mr. Scott at the time; he had not yet called for backup. The fact that Mr. Scott was hanging onto a fence, refused to let go and was stating he didn't do anything wrong posed no immediate threat to Detective Bermudez' safety.

Observation to Promote Constructive Police/Citizen Interactions

1. In a **consensual** encounter, a police officer has the right to approach an individual in public and ask questions without a founded suspicion of criminal activity. The individual may either comply with a police officer's request or choose to ignore it. In fact, a person is not obligated to give his or her correct identity to an officer unless that person is legally detained. If an individual refuses to give his or her name or answer questions, the encounter must end.⁴
2. The U.S. Supreme Court held that an individual's flight at the sight of police provided officers with reasonable suspicion for an investigatory stop.⁵
3. The U.S. Supreme Court held that subjects who are **lawfully** being detained (a "Terry" stop⁶) must give their names to police and if they refuse, they can be arrested.⁷

Recommendations: Staff recommends:

1. That the Panel adopt the staff findings and recommendations.
2. Than the Panel conclude the complaint.
3. That MDPD define "consensual encounter" so that officers and the public have a mutual understanding as to when an individual must answer an officer's questions and when an individual can ignore the officer's questions.

⁴ MDPD Legal Bulletin 2004-5

⁵ MDPD Legal Bulletin 2000-2

⁶ Stop and limited search of a person, justified by "reasonable suspicion" that a crime is in progress or imminent.

⁷ MDPD Legal Bulletin 2004-5

MIAMI-DADE POLICE DEPARTMENT

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MIAMI-DADE POLICE DEPARTMENT
MIAMI-DADE COUNTY, FLORIDA
POLICE LEGAL BUREAU



Legal Bulletin

February 21, 2000

LEGAL BULLETIN 2000-2

SUBJECT: Unprovoked Flight — Reasonable Suspicion for Investigatory Stop

The United States Supreme Court recently held that an individual's flight at the sight of police provided officers with reasonable suspicion for an investigatory stop. *Illinois v. Wardlow*, 120 S. Ct. 673 (2000). In *Wardlow*, uniformed officers of the Chicago Police Department converged on an area known for heavy narcotics trafficking in order to investigate drug activity. While driving in the area, one officer observed Wardlow standing next to a building holding an opaque bag. Wardlow looked in the direction of the officers and fled. The police officers eventually apprehended Wardlow and conducted a protective pat-down search because in their experience it was common for weapons to be present in an area where narcotics transactions are conducted. During the frisk, the officer squeezed the bag Wardlow was carrying and felt what he believed to be a firearm. Inside, officers found a .38 caliber handgun and ammunition, for which Wardlow was arrested.

The Illinois Appellate Court reversed Wardlow's conviction for unlawful use of a weapon by a felon, stating that the evidence should have been suppressed because the officer did not have reasonable suspicion to justify an investigative stop pursuant to *Terry v. Ohio*, 392 U.S. 1 (1968). The Illinois Supreme Court upheld the Illinois Appellate Court decision stating that sudden flight in an area known for heavy narcotics trafficking does not on its own create a reasonable suspicion to justify a *Terry* stop.

The United States Supreme Court reversed the Illinois Supreme Court, holding that an individual's flight at the sight of police provided the officers with reasonable suspicion for an investigatory stop. In its decision, the Supreme Court explained the consistency of its reasoning in *Wardlow* with its previous holdings in *Florida v. Royer*, 460 U.S. 491 (1983) and *Florida v. Bostick*, 501 U.S. 429, 115 L. Ed. 2d 389, 111 S. Ct. 2382 (1991). In *Royer*, the Supreme Court held that when an officer, without reasonable suspicion or probable cause, approaches an individual, the individual has the right to ignore the police and go about his business. The Court in *Bostick* held that any refusal to cooperate, without more, does not furnish the minimal level of objective justification needed for detention or seizure. However, the Court in *Wardlow* stated that unprovoked flight is more than a mere refusal to cooperate and is, by its very nature, "not going about one's business." Therefore, permitting officers to conduct an investigatory stop when confronted with such flight is consistent with the individual's right to go about his business or stay put and remain silent in the face of police questioning.

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Even though Wardlaw was found in an area described by officers as one in which heavy narcotics trafficking occurs, this case appears to support an officer's right to conduct an investigatory stop for unprovoked flight, regardless of the type of area in which the subject is observed. This right to conduct an investigatory stop would not extend to a situation where the subject is observed doing nothing other than merely being present in an area known for a high level of narcotics trafficking, and not fleeing upon seeing the police. Without the unprovoked flight factor, officers would need to articulate additional circumstances in conjunction with being present in a area of high narcotics trafficking to justify a Terry stop.

Miami-Dade Police Department officers having questions concerning this Legal Bulletin may call the Police Legal Bureau at (305) 471-2550. Officers from other law enforcement agencies should contact their respective legal advisors prior to taking action based upon this Legal Bulletin.

VMR

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MIAMI-DADE POLICE DEPARTMENT

MIAMI-DADE COUNTY, FLORIDA
POLICE LEGAL BUREAU



Legal Bulletin

LEGAL BULLETIN 2004-5

August 24, 2004

SUBJECT: DISCLOSING NAME TO POLICE

The United States Supreme Court recently held that subjects who are lawfully being detained, (a "Terry" stop), must give their names to police and if they refuse, they can be placed under arrest. Hibel v. Sixth Judicial District Court of Nevada, 124 S.Ct. 2451 (2004). The appropriate charge in Florida for failure to provide your name to a law enforcement officer would fall under Florida Statutes §843.02, *Resisting an officer without violence to his or her person*.

The facts in Hibel are that the sheriff's department in Humboldt County, Nevada, received a telephone call reporting an assault. The caller reported seeing a man assault a woman in a red and silver GMC truck on Grass Valley Road. A deputy sheriff was dispatched to investigate and when he arrived at the scene, he found the truck parked on the side of the road. A man was standing by the truck, and a young woman was sitting inside it. The officer observed skid marks in the gravel behind the vehicle, leading him to believe it had come to a sudden stop. The officer approached the man and explained that he was investigating a report of a fight. The officer asked for identification and the man refused. The man became agitated insisting that he did nothing wrong. The officer responded that he was conducting an investigation and needed to see some identification. The officer asked for identification eleven times and was refused each time. After warning the man that he would be arrested if he continued to refuse to comply, the officer placed him under arrest for willfully resisting, delaying, or obstructing a public officer in discharging or attempting to discharge any legal duty or his office. The Court ruled that forcing a subject to give his or her name does not violate the Fourth Amendment's protection from unreasonable searches. The court also held that name requests do not violate the Fifth Amendment right against self-incrimination, except in rare cases.

The ruling in Hibel is based upon a stop where reasonable suspicion of criminal activity existed. Although Hibel provides that subjects must disclose their names to police, the court did not find that the police may demand identification, such as a driver's license, nor are subjects required to provide private details about their background.

Officers are reminded that the Hibel case only applies to a lawful detention in instances where reasonable suspicion of criminal activity exists and does not apply to consensual encounters. In a consensual encounter, a police officer has the right to approach an individual in public and ask questions without a founded suspicion of criminal activity. Poppel v. State, 626 So.2d 185, 187 (Fla.).

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August 24, 2004

1993). The individual may either voluntarily comply with a police officer's request or choose to ignore it. Id. at 106. In fact, a person is not obligated to give his or her correct identity to an officer unless that person is legally detained. Fournier v. State, 731 So2d 75 (Fla. 2nd DCA, 1999). If an individual refuses to give his or her name or answer questions, then the encounter must be ended.

Miami-Dade Police officers having questions regarding this Legal Note may contact the Police Legal Bureau at (305) 471-2550. Officers from other law enforcement agencies should contact their respective legal advisors prior to taking action based upon this Legal Note.

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